

UNITED STATES OF AMERICA, ) Criminal No. 08CR417-WQH  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 JOSE ALCALA-EQUIHUA, )  
 )  
 Defendant. )

**FINDINGS AND RECOMMENDATION OF  
THE MAGISTRATE JUDGE UPON A  
PLEA OF GUILTY WITH WAIVER OF  
OBJECTIONS AND THE PREPARATION  
OF THE PRESENTENCE REPORT**

In consideration of that hearing and the allocution made by the Defendant under oath on the record and in the presence of counsel, and the remarks of the Assistant United States Attorney,

08CR417-WQH

1       **I make the following FINDINGS - that the Defendant**  
2 **understands:**

- 3       1.    the right to persist in a plea of "not guilty";
- 4       2.    the right to a speedy and public trial;
- 5       3.    the right to be tried by a jury, or the ability to
- 6       waive that right and have a judge try the case without
- 7       a jury;
- 8       4.    the right to the assistance of counsel at trial;
- 9       5.    that, at trial, there would be the right to confront
- 10      and cross-examine the witnesses against the Defendant;
- 11      6.    that, at trial, there is the right to present a
- 12      defense, and the right to have witnesses subpoenaed to
- 13      testify on the Defendant's behalf;
- 14      7.    that, at trial, the Defendant would have the right
- 15      against compelled self-incrimination;
- 16      8.    the nature of the charge filed in this case;
- 17      9.    the maximum possible sentence that could be imposed
- 18      (including imprisonment, fine, term of supervised
- 19      release, and mandatory special assessment), the effect
- 20      of a supervised release term, and that the sentencing
- 21      guidelines are only advisory so that the Court may
- 22      sentence Defendant up to the statutory maximum;
- 23      10.   the terms of the plea agreement;

24 **I further find that:**

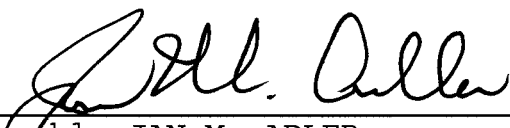
- 25      11.   that Defendant's plea of guilty is made knowingly and
- 26      voluntarily;
- 27      12.   the Defendant is competent to enter a plea; and
- 28      13.   there is a factual basis for Defendant's plea.

1 I therefore RECOMMEND that the District Judge accept the  
2 Defendant's plea of guilty.

3 The sentencing hearing will be before United States District  
4 Judge WILLIAM Q. HAYES, on APRIL 21, 2008, at 9:00 AM.

5 Objections to these Findings and Recommendation were waived  
6 by the parties at the hearing. The parties have also waived the  
7 preparation of the Presentence report in this case.

8  
9  
10 Dated: 3/11/08 mle  
3/12/08

  
Honorable JAN M. ADLER  
United States Magistrate Judge

11  
12 Copies to:

13 Hon. WILLIAM Q. HAYES  
14 U.S. District Judge

15 United States Attorney

16 THOMAS SIMS  
17 Counsel for Defendant  
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